

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **Shannon Lane Argue v Jerry-Ann Sherry**

Docket No. **305779**

L.C. No. **11-011611-AH**

Donald S. Owens, Judge, acting under MCR 7.211(E)(2), orders:

The motion for suspension of fees and costs is DENIED. MCL 600.2963(8) precludes appellant from proceeding with the present delayed application for leave to appeal without having paid the outstanding fee of \$375 in *Shannon Argue v Dept of Corrections*, Docket No. 267271; *Keenan v Dep't of Corrections*, 466 Mich 204, 204-205; 644 NW2d 756 (2002). In this regard, the specific provision of MCL 600.2963(8) must prevail over the more general language of MCL 600.2963(7). See, e.g., *Manuel v Gill*, 481 Mich 637, 648-649; 753 NW2d 48 (2008). Further, there is no actual conflict between MCR 2.002(D) and MCL 600.2963(8) because, to the extent it applies, MCR 2.002(D) governs whether appellant has to pay fees and costs for the present appeal. MCL 600.2963(8) does not address that matter, but rather bars appellant from proceeding with this appeal unless the outstanding fee in his prior appeal is paid.

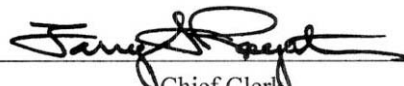
Notably, because the circuit court denied habeas corpus relief to appellant, it appears that he could file an original complaint for habeas corpus as to the underlying matter in this Court. See MCR 3.303(A)(2). Further, MCL 600.2963(8) could not constitutionally be applied to bar the filing of such an original complaint for habeas corpus because no "financial consideration" or "financial hurdle" may be imposed to prevent the filing of a complaint for habeas corpus. *Smith v Bennett*, 365 US 708; 81 S Ct 895; 6 L Ed 2d 39 (1961).



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

OCT 04 2011

Date


Chief Clerk